

February 26, 1999

Senate Tuesday Votes on Bill to Help Small Businesses Cope With the "Y2K Problem"

The Senate on March 2 is expected to pass overwhelmingly S. 314, the Small Business Year 2000 Readiness Act. The bill will help assure that the nation's small businesses have ample capital available to cope with the Year 2000 compliance problem. The bill, sponsored by Senate Small Business Committee Chairman Kit Bond, was unanimously approved by the Committee on February 5, 1999 (Calendar No. 18, S. Rept. No. 106-5).

The bill comes to the Senate under a unanimous consent agreement for one hour of debate and no amendments. It requires the Small Business Administration to establish a limited-term loan program whereby the agency guarantees the principal amount of a loan made by a private lender to assist small businesses in correcting computer problems related to the Year 2000. Additionally, loans could be made available to help small businesses if their suppliers, customers, or financial institutions incur so-called "Y2K" problems that affect their ability to stay up and running.

The "Y2K Problem" and its Impact on Small Businesses

- ▶ The so-called "Y2K" problem is the result of programmers who, over the past many years, have written computer codes that use only two digits to represent years. This means that some computers and processors in automated systems will fail because such systems will not recognize the Year 2000 date-dependent data.
- ▶ A study sponsored by Wells Fargo Bank and the National Federation of Independent Business found that an estimated 4.75 million small employers are subject to the Y2K problem. Approximately 750,000 small businesses may either shut down due to the problem or be severely crippled if they do not take action.
- ▶ The Gartner Group, an international information technology consulting firm, has estimated that between 50 and 60 percent of small companies would experience at least one mission-critical failure as a result of Y2K computer problems. As of the third quarter of 1998, only 5 percent of small businesses had completed their Y2K corrections.
- ▶ Such failures will affect not only the employees and owners of failed small businesses,

but also their creditors, suppliers, and customers. Lenders will face significant losses if their small business borrowers either go out of business or have a sustained period in which they cannot operate.

- ▶ Coming into Y2K compliance can cost small businesses thousands of dollars and may not protect them from the impact of other businesses' failures. The Small Business Year 2000 Readiness Act is designed to help small business comply — as well as deal with the consequences of those who do not.

Summary of S. 314, the Small Business Year 2000 Readiness Act

I. Establishment of Program and Limits on Use of Funds

The legislation requires the Small Business Administration (SBA) to establish a loan guarantee program (hereinafter referred to as the "Y2K loan program") under which the SBA may guarantee loans to small businesses to address the Year 2000 computer problems of such businesses. Any lender eligible to participate in the SBA's 7(a) business loan program is eligible to participate in the Y2K loan program. This includes more than 6,000 lenders nationwide.

Small businesses may only use loan proceeds for two purposes. First, a small business may use loan proceeds to correct the Year 2000 computer problems affecting its own information technology systems and other automated systems. For example, a small business is permitted to use loan proceeds to purchase or repair hardware or software, or to pay for consultant services to repair such hardware or software. Second, a small business may use loan proceeds to provide relief from economic injuries suffered as a direct result of its own Year 2000 computer problems or some other entity's Year 2000 computer problems.

II. SBA Guidelines Governing the Program

The legislation requires the SBA to establish guidelines governing the Y2K loan program within 30 days of enactment and establishes certain parameters for such guidelines. First, the guidelines must permit a financial institution to process Y2K loans in accordance with the requirements of any existing loan program established under the SBA's 7(a) business loan program in which such lender is eligible to participate.

Second, the Y2K loan program guidelines are required to provide flexibility in the structuring of loans in a manner consistent with a borrower's ability to service the debt. This provision would permit a financial institution to extend the maturity or otherwise structure a Y2K loan so that small businesses that may not have sufficient cash flow to service a regularly amortized loan are not ineligible for financing.

The bill also requires the SBA's guidelines to provide that any reasonable doubts regarding an applicant's ability to service the debt be resolved in favor of the applicant. Similar statutory language exists for the SBA's DELTA loan program (assisting small businesses to transition from defense industries to non-defense industries) and the SBA's loan program to assist handicapped individuals establish or operate a business. This provision would provide the benefit of the doubt to a small business whose ability to service the debt is within a reasonable margin of meeting the SBA's general qualifying criteria.

III. Maximum Guarantee Percentages and Loan Amounts

Similar to the Export Working Capital Loan Program, the bill establishes the SBA's guarantee percentage for the Y2K loan program at a slightly higher amount than the guarantee percentage under the 7(a) general business loan program. The guarantee percentages for loans under the Y2K loan program are 90 percent for loans less than or equal to \$100,000, and 85 percent for loans of more than \$100,000. Under the 7(a) loan program, guarantee limits are 80 percent for loans of \$100,000 or less, and 75 percent for loans of more than \$100,000.

Under current law, the SBA may not guarantee more than \$750,000 to any single borrower. The legislation establishes a limited exception to current law so that the SBA may exceed that amount, by up to \$250,000, for loans under the Y2K loan program. This provision would permit a borrower that has outstanding SBA loans to remain eligible for the program even if its Y2K loan would exceed the current statutory guarantee limit.

IV. Inspector General Reviews

The bill requires the Inspector General of the SBA to review periodically a representative sample of loans originated under the program to mitigate the risk of fraud and ensure the safety and soundness of the program.

V. Reporting Requirements

The bill requires the SBA to annually submit to the Small Business Committees of the Senate and House of Representatives a report on the results of the program.

VI. Termination of the Program

The bill provides that the loan program will terminate on December 31, 2000.

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